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THE COMMISSION STATUTE OF NEW JERSEY

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The most thoroughgoing step towards adopting the principles of commission government for cities in any eastern state was taken by New Jersey at the recent session of her legislature. Commission government, as is well known, has for some time been in operation in a few eastern cities, but New Jersey has, by a general enactment, provided a means whereby every municipality in the state, no matter how large or how small, may, under certain conditions, adopt this form of government. This act, known as the Walsh Act, was an integral part of Governor Wilson's progressive program, and was passed in the face of the determined opposition of the machines of both political parties.

Though applying potentially to every municipality in the state, the act remains inoperative in any city until adopted by a vote of the majority of the legal voters of such city voting at a special election called for that purpose. It is further provided that the total vote cast at the special election must be equal to at least 30 per cent of the votes cast for members of the general assembly at the last general election. This requirement is significant in view of the fact that in the large cities of the state it has seldom been possible to induce thirty per cent of the voters to come to the polls at a special election. In order that such an election may be held, it is necessary that a petition to that effect be filed containing the names of twenty per cent of the legal voters voting at the last general election. If, at such special election, a sufficient number of the votes are not cast in favor of the adoption of the act, no further proceedings can be taken until after the beginning of the last year of the term of the mayor elected at the election following the rejection of the act. Any city which, having adopted the act, has been operating under it for at least six years, may resume its charter by a majority vote at a special election called in compliance with a petition containing the names of twenty-five per cent of the legal voters of the city.

Shortly following the election at which any city adopts the provisions of the act, a primary election is to be held in such city for nominating candidates for commissioners. In this primary election, a name may be placed upon the ballot by a petition filed with the city clerk and containing the signatures of qualified electors of the city equal in number to at least one-half of one per cent of the entire vote at the last preceding general election, and in no case less than twenty-five. Although no voter can sign a petition for more candidates for nomination than the number of commissioners to be elected, it is conceivable that there might be several hundred names upon the ballot at the primary election. These names are arranged upon the ballot in alphabetical order, and, in one of the most important provisions of the act, it is expressly required that the ballot "shall have no party designation or mark whatever indicative of the source of the candidacy or of the support of any candidate." Since candidates can be nominated in no other way than by petition, it will be seen that a very thoroughgoing attempt has been made to eliminate the predominant influence of the party machine in nominations. At the final election succeeding the primary election, five commissioners are elected in cities having a population of ten thousand or more. In smaller cities three commissioners are elected. The official ballot at the final election contains twice as many names as there are commissioners to be elected, and are taken from the list of candidates who obtained the highest number of votes in the primary election. The commissioners elected at the final election serve for a term of four years. Upon their induction into office, the members of the city council and all other city officers, except those protected by civil service laws, immediately and *ipso facto* go out of office.

To the board of commissioners thus created are given all legislative, judicial, and administrative powers previously possessed by the mayor and city council and all other legislative and executive bodies in the city. In cities adopting the act and having a population of ten thousand or more, five departments of city government are created which are designated: (1) Department of Public Affairs, (2) Department of Revenue and Finance, (3) Department of Public Safety, (4) Department of Streets and Public Improvements, and (5) Department of Parks and Public Property. The five commissioners, at their first meeting, choose one of their number to be

mayor, but the latter has no veto or special powers, other than those ordinarily pertaining to the office of president of the board. The act requires that the mayor shall be the director of the Department of Public Affairs. The commissioners, at their first regular meeting, designate by majority vote one commissioner to be director of each of the other departments. The division of the business of the city among the departments is determined by the board. The commissioners are given large powers of appointment and removal. They may create such subordinate boards and appoint such officers as they deem desirable. Any such board or officer may be abolished or removed from office by the commissioners at any time for cause, after a public hearing, and the commissioners themselves are made the sole judges of the sufficiency of the cause of such removal. It is provided in the act that "all officers or employees of the city shall be elected or appointed with reference to their qualifications and fitness and for the good of the public service and without reference to their political faith or party affiliations." There is no method, however, of enforcing this provision except by the pressure of public opinion. Every elective officer of the city is required, under penalty of removal from office, to publish, within ten days after qualifying, a sworn statement of all his election and campaign expenses, and by whom such funds were contributed. It is further made unlawful for any candidate for office or any officer of the city to give or promise any person employment or any reward of value for the purpose of influencing his vote. The annual salaries of the commissioners vary from \$5,000 in the largest cities to \$50 in the smallest villages, the mayor in each case receiving slightly more than the other commissioners.

All the meetings of the commissioners, both regular and special, are open to the public, and any citizen may have access to the minutes, upon application to the clerk. Every proposed ordinance must be published in the city before being finally passed by the board, and the more important ordinances, such as those appropriating money or granting franchises, must remain on file with the city clerk for public inspection at least two weeks before final passage. The board is given the usual powers of passing police ordinances and enforcing them by the imposition of fines and imprisonment. In order to validate any ordinance which operates to increase the net bonded indebtedness of the city to a sum in

excess of ten per cent of the assessed valuation of all property within the city, a popular referendum is necessary and the proposed ordinance must receive the approval of a majority of those voting at the referendal election. In order that the public may be kept informed of the condition of the city's business, it is required that the board shall each month publish within the city a detailed itemized statement of all the receipts and expenditures of the city, and a summary of its proceedings during the preceding month. Similarly, it is required that an annual audit of the books and accounts of the city be made by competent accountants and the result of the examination published for the information of the public.

Every officer and employee of the city is expressly forbidden to be in any way interested in the profits of any contract or work to be done for the city or for any public utility operating within the city. Policemen or firemen in uniform may accept free transportation from street railway companies, but every other city employee is forbidden, under penalty, to accept any free transportation or free service or rebate from any public utility company operating within the city.

In some of its principal features the New Jersey law follows the Des Moines plan. This is true in the case of the non-partisan primary, already described. In order to place in the hands of the people some check upon the very considerable powers lodged in the board of commissioners, the additional features of the initiative, the referendum, and the recall are also adopted from the Des Moines plan.

Any proposed ordinance may be submitted to the board of commissioners by petition signed by qualified voters of the city. If the number of signatures to the petition equals fifteen per cent of the votes cast at the last preceding general election, the board must either pass the ordinance without amendment within twenty days or forthwith call a special election for the purpose of submitting the proposed ordinance to the vote of the people. If the petition contains signatures equal in number to more than ten, but less than fifteen per cent of the votes at the last election, the same procedure follows, except that no special election is called, but the proposition may be submitted to the people at the next general municipal election occurring within thirty days. The ordinance thus submitted to the people becomes valid if the majority of the votes

cast are favorable; and any ordinance adopted by a vote of the people cannot be repealed or amended except by a vote of the people, but the board itself may submit to the people a proposition for the repeal or amendment of any ordinance adopted by popular vote. The board may also, *suo motu*, submit any proposed ordinance to a vote of the people which it or the people are qualified to enact. No ordinance, except so-called "emergency" ordinances passed by a two-thirds vote of the board, goes into effect until ten days from the date of its final passage. During this interval, a petition of protest against the passage of the ordinance may be submitted to the board, and, if signed by electors of the city equal in number to at least fifteen per cent of the vote cast at the last preceding general municipal election, the ordinance is thereupon suspended from going into effect. It then becomes the duty of the board to reconsider such ordinance, and, if it is not entirely repealed, the board must submit it to the people for approval or rejection by a majority vote.

If the voters are dissatisfied with the acts of any elective city officer, a special election is required to be called upon a petition containing the duly authenticated signatures of qualified voters equal in number to twenty-five per cent of the total vote at the last election, and demanding the election of a successor to the person sought to be removed, together with a general statement of the grounds for which the removal is sought. At the special election, held a month after the filing of the petition, the officer sought to be removed may be a candidate to succeed himself, and the names of any other candidates for his position appear upon the ballot. If the incumbent receives the highest number of votes, he of course retains his office; if not, any other candidate receiving the highest number of votes is elected in his place. In order to increase the terrors of the recall, it is provided that no person who has been recalled from office, or who has resigned from such office while recall proceedings were pending against him, shall be appointed to any office within one year after such recall or resignation. In order, however, to place a check upon a too hasty or inconsiderate use of the recall, and to give the officer an opportunity fully to establish his policy, it is provided that no recall petition shall be filed against any officer until he has held his office for at least one year, and that only one recall petition can be filed against the same officer during his term of office.